IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 10670 of 2004

Between:
Nali Sree Devi D/o N. Prahalada Rao R/o D. No. 21-9-25/4, Madhura Nagar , Vijayawada-11, Krishna District

..... PETITIONER

AND

1 The Deputy Registrar of Cooperative Societies, Vijayawada Division, Arundel Comples, Vijayaeada-2, Krishna District
2 The Punadipadu Primary Agricultural Cooperative Credit Society Ltd., Punadipadu, Kankipadu Mandal, Krishna District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus, declaring the orders of the A.P., Cooperative Tribunal, Vijayawada dated 28-05-2004 in A.M. No. 54 of 2004 in O.A. No. 63 of 2004 as illegal, arbitrary, unreasonable to the extent of directing the petitioner to deposit 50% of the amount stipulated in the proceedings Rc. No.2388/02-E dated 21-01-2004 of the 1st respondent,

Counsel for the Petitioner: MR.T.RAJENDRA PRASAD

Counsel for the Respondent No.1: GP FOR COOPERATION

The Court at the admission stage made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the order of the A.P. Cooperative Tribunal, Vijayawada, (for short 'the Tribunal'), dated 28.05.2004, passed in M.A.No.54 of 2004 in O.A.No.63 of 2004, under which the petitioner was directed to deposit 50% of the amount stipulated in the impugned order.

2. According to the petitioner, surcharge proceedings were initiated against the officers of the PACS, Kankipadu, as well as the managing partners of the said society. It is also the case of the petitioner that she was working as a Branch Manager of District Cooperative Central Bank at Kankipadu and she joined in the service only in the year 2001. With reference to the alleged mismanagement or advancing loans, the learned counsel for the petitioner submitted that certain irregularities alleged to have been committed since 1993 and the petitioner was not a party to those irregularities. Further, it is also submitted that it was recommended by the Deputy Registrar of

Cooperative Societies to drop the proceedings against the petitioner. In spite of it, the name of the petitioner was included while passing the surcharge proceedings against other persons, who are responsible for the irregularities as well as for causing loss to the society. Aggrieved by the said order, the petitioner filed an appeal and sought for stay of the award, pending disposal of the appeal.

3. The Tribunal as usual passed a conditional order directing the petitioner to deposit 50% of the amount. Aggrieved by the same, the petitioner has come up with the present writ petition.

4. The learned counsel for the petitioner contended that once a finding is recorded by the appropriate authority while passing the surcharge proceedings that the petitioner is not responsible for any irregularity, and that the action against the petitioner shall be dropped, incorporating the name of the petitioner while passing the award is illegal. Therefore, the learned counsel for the petitioner contended that the award is illegal and unsustainable and the appeal is to be allowed in so far as the petitioner is concerned. But, however, the Tribunal as usual passed order directing the petitioner to deposit 50% of the amount stipulated in the impugned order. He further submitted that in view of the finding recorded in the surcharge proceedings, the petitioner ought not to have

been directed to deposit any amount, pending disposal of the appeal.

5. Heard the learned counsel for the petitioner and the learned Government Pleader for Cooperation.

6. In view of the categorical finding recorded in the surcharge order by the Deputy Registrar of Cooperative Societies, dated 20.01.2004, dropping the proceedings against the petitioner, inclusion of petitioner's name for recovery of certain amounts is clearly illegal and without jurisdiction.

7. Under the above circumstances, usual conditional order passed by the Tribunal is not proper and just. Accordingly, the impugned order of the Tribunal is set aside and the Tribunal is directed to dispose of the appeal expeditiously, preferably within a period of three months from the date of receipt of a copy of this order. Pending disposal, the respondents are directed not to proceed against the petitioner for recovery of the amounts.

8. Accordingly, the writ petition is disposed of. No costs.

28.06.2004

VGB

To

1 The Deputy Registrar of Cooperative Societies, Vijayawada Division, Arundel Comples, Vijayaeada-2, Krishna District
2 The Punadipadu Primary Agricultural Cooperative Credit Society Ltd., Punadipadu, Kankipadu Mandal, Krishna District
3 Two CCs to the Govt. Pleader for Cooperation, High Court Buildings, Hyderabad (OUT)
4 Two CD copies.